

Remarks

This is in response to the Office Action mailed on September 29, 2003. Claims 1-5 remain pending. Reconsideration and allowance are respectfully requested in view of the following remarks.

In the Office Action, claims 1, 3, and 4 were rejected under 35 U.S.C. § 102(a) as being anticipated by Picca, U.S. Patent No. 6,322,253. This rejection is respectfully traversed, and the correctness of the rejection is not conceded.

The Office Action states that the rejection is made under section 102(a), but provides the statutory language of 35 U.S.C. § 102(b). Both statutory sections are therefore addressed.

Section 102(a) states, in pertinent part, that one is entitled to a patent unless "the invention was known or used by others in this country, or patented or described in a printed publication in this . . . country, before the invention thereof by the applicant for patent."

According to MPEP 2132.01, the prior art date under section 102(a) for a patent is the date of its publication. Picca was published on the issue date of November 27, 2001, while the present application was filed in the United States on July 12, 2001. Therefore, since the present application was filed prior to the issuance of Picca, it is respectfully submitted that Picca is not prior art to the present application under section 102(a).

Section 102(b) states, in pertinent part, that one is entitled to a patent unless "the invention was patented . . . in this . . . country . . . more than one year prior to the date of application for patent in the United States."

As previously noted, Picca issued as a patent on November 27, 2001, while the present application was filed in the United States on July 12, 2001. Therefore, since the present application was filed prior to the issuance of Picca, it is respectfully submitted that Picca is not prior art to the present application under section 102(b).

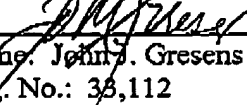
Reconsideration and allowance of claims 1, 3, and 4 are respectfully requested.

Claim 5 was noted as being allowable. Applicants appreciate the Examiner's assistance in identifying allowable subject matter. Reconsideration and allowance of all claims are respectfully requested.

In view of the above remarks, favorable reconsideration in the form of a Notice of Allowance is respectfully requested. Please contact the undersigned attorney with any questions regarding this application.

Respectfully submitted,
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: December 22, 2003

By: 
Name: John J. Gresens
Reg. No.: 38,112
JJG/RAK